

REMARKS

The undersigned Attorney conducted an Interview with the Examiner on May 17, 2007. During the interview, the undersigned Attorney and the Examiner discussed the Final Office Action mailed May 9, 2007 and the Pagdin reference, including opposed forces applied to the tiers of units in Pagdin. The Examiner reiterated the position that element 50 acts upon the sides of the formed tier (Fig 5) and therefore applies opposed clamping forces. A further claim amendment directed toward the opposed clamping forces being exclusively sufficient to lift the group was discussed.

In the Final Office Action mailed May 9, 2007, the Examiner objects to claims 36 and 37 as not being having correct identifiers. Applicants note that claims 36 and 37 correctly identify the appropriate independent claim and thus this objection is in err. Should any issue remain with respect to this objection, Applicants request that the Examiner call the undersigned Attorney to remedy the issue quickly.

Claims 3-4, 10, 12 and 36 stand rejected under 35 USC §102(b) as being anticipated by Pagdin (U.S. Patent 2,920,916). Claims 5-9, 13-14, 17-23, 25 and 37 stand rejected under 35 USC §103(a) as being unpatentable over Pagdin in view of Applicants Admitted Prior Art (AAPA). Claims 13-16 and 25-29 stand rejected under 35 USC §103(a) as being unpatentable over Pagdin and AAPA further in view of Milholen et al. (U.S. Patent No. 3,992,049). Claims 11 and 24 stand rejected under 35 USC §103(a) as being unpatentable over Pagdin in view of Kintgen et al. (U.S. Patent No. 4,271,755).

Applicant has amended claims 1 and 17 to more clearly define the present invention over the cited prior art. Applicant respectfully submits that the claims of the present invention are neither taught nor suggested by the prior art.

More particularly, claim 3 as amended recites, *inter alia*,

... said lifting and transporting accomplished by applying opposed clamping forces to opposite sides of at least one group having a cross-stacked configuration while preventing elongate bags disposed side-by-side in said cross-stacked configuration from sliding past one another, **said opposed clamping forces alone being sufficient to lift the at least one group.** (emphasis added)

Nowhere does the prior art teach or suggest these features.

The Examiner points to the sealing member 50 of Pagdin as providing the opposed clamping forces of the claim. This analysis is flawed. Vertical movement of the suction head 40 relative to the tier of units 54 causes the suction head to come into contact with the tier of units as shown in FIG. 5. This causes the sealing member 50 to deform as follows:

“... an inner portion of the sealing member 50 is pinched or compressed between the tops of units forming the periphery of the tier and the screen or the perforated plate 44. The outer portion of the sealing member 50 is forced into a generally U-shaped cross section with the upper portion of the sides of the units forming the periphery of the tier. Compression of the inner portion of the member 50 causes the air pressure in the outer portion to increase, thus aiding in establishing the vertical seal along the tube wall 55. When air is evacuated from the suction head, a tight seal is made between the portion or wall 55 and the corresponding sides of the units and between horizontal portions of the sealing member 50 and the corresponding portions of the tops of the units.” Col. 3, lines 46-58.

In this manner, the sealing member 50 operates to create a seal against portions of the tops and sides of the cartons of the tier as best shown in FIG. 5. After the seal is created,

the suction head 19, which covers the top of the carton tier, applies vertical suction forces through the screen 44. These vertical suction forces are used to lift the carton tier (col. 3, lines 57-66). **There are no opposed clamping forces applied to the carton tier that are alone sufficient to lift the carton tier. Instead, vertical suction forces from above the carton tier are used to lift the carton tier (col. 3, lines 64-72).** In this manner, the material handling system of Pagdin does not employ opposed clamping forces that are alone sufficient to lift at least one group of elongate bags when lifting and transporting the group of bags as recited in the claim. For these reasons, Applicant respectfully submits that the Examiner has failed to establish a prima facie rejection of the claims.

The systems described in Milholen et al. and Kintgen et al. fail to address the shortcomings of Pagdin as set forth above. More particularly, the brick stacking machine of Milholen and the bag handling apparatus of Kintgen have nothing to do with the application of clamping forces to at least one group of elongate bags having a cross-stacked configuration as recited in the claim.

As set forth above, the prior art fails to teach or suggest important features of claim 3. For these reasons, it is respectfully submitted that claim 3 is patentable over the prior art. Similar arguments apply to independent claim 17.

It is respectfully submitted that the dependent claims 4-16, 18-29, and 36-37 are patentable over the cited prior art for those reasons advanced above with respect to

independent claims 3 and 17 from which they respectfully depend and for reciting additional features neither taught nor suggested by the cited prior art.

For example, claims 12 and 25 recite "a stacker machine having a moveable stacker head ... and **at least one support structure that is operably disposed between bags disposed side-by-side** in said cross-stacked configuration to prevent such bags from sliding past one another." Nowhere does the prior art teach or suggest this feature. The Examiner points to the lifting operation member 50 as providing this feature. This analysis is flawed as the lifting operation member 50 is disposed about the periphery of the carton tier (see FIG. 6) and thus is not "disposed between bags" as recited in claims 12 and 25. For this reason, Applicant respectfully submits that claims 12 and 25 are patentable over the cited prior art.

In another example, claims 13 and 26 recite that this support structure is "at least one chain. In yet another example, claims 14 and 27 recite that this support structure is "one of wire strands and rope strands." Nowhere does the cited prior art teach or suggest these features. The Examiner states that these features would be obvious to one of ordinary skill in the art. Such analysis is flawed as there is no factual basis underlying the Examiner's assertion. For this reason, Applicant respectfully submits that the Examiner has failed to establish a prima facie rejection of claims 13, 14, 26 and 27.

In yet another example, claims 15 and 28 recite "a lift truck having ... **a central support bar laterally disposed below and between said two clamp members** for

preventing elongate bags disposed side-by-side in said cross-stacked configuration from sliding past one another." Nowhere does the cited prior art teach or suggest these features. The Examiner equates the support members 106,108, 110, 112 of Milholen to the central support bar of the claim. However, these support members are not disposed below the two clamping members 102 and 104 as recited in the claims. Moreover, the support members of Milholen are used to grip partial brick courses and not for preventing elongate bags disposed side-by-side in said cross-stacked configuration from sliding past one another as recited in the claims. For these reasons, Applicant respectfully submits that claims 15 and 28 are patentable over the cited prior art.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jay P. Sbrollini". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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